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6 **UNITED STATES DISTRICT COURT**
7 **SOUTHERN DISTRICT OF CALIFORNIA**
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9 HANSEN BEVERAGE COMPANY,

10 Plaintiff,

11 vs.

12 INNOVATION VENTURES, LLC dba
13 LIVING ESSENTIALS, a Michigan
corporation,

14 Defendant.

CASE NO. 08-CV-1166 IEG (POR)

**ORDER DENYING JOINT
MOTION TO BIFURCATE THE
DAMAGES PHASE OF THIS CASE**

(Doc. No. 122)

15 The parties have submitted a joint motion to bifurcate the issue of damages for discovery
16 and trial in this case. For the reasons explained below, the Court DENIES the parties' joint motion.

17 Plaintiff filed this action on July 1, 2008, alleging false advertising and trade libel.
18 Magistrate Judge Porter initially issued a scheduling order on December 9, 2008, setting a timetable
19 for discovery, motions, and pretrial matters. According to that initial Scheduling Order, the Pretrial
20 Conference was set for December 21, 2009.

21 Upon the parties' joint motion, on February 24, 2009, Magistrate Judge Porter revised the
22 parties' Scheduling Order, adjusting some of the interim discovery and other dates. Upon the
23 parties' subsequent joint motion, Magistrate Judge Porter issued a Modified Scheduling Order on
24 April 7, 2009, further extending the parties' time to conduct discovery and also continuing the
25 Pretrial Conference to March 22, 2010.

26 Upon the parties' further joint motion, on August 6, 2009, this Court again continued the
27 Pretrial Conference date to May 24, 2010, and on August 11, 2009, Magistrate Judge Porter issued
28 another Modified Scheduling Order giving the parties additional time to conduct discovery and

1 complete pretrial matters.

2 On September 9, 2009, Defendant Innovation Ventures, LLC filed an ex parte application
3 seeking further extension of the discovery and pretrial conference dates. This application¹ sought
4 an extension of the discovery and related dates, and requested that the Pretrial Conference be
5 continued to September 13, 2010. Prior to obtaining a ruling on Defendant's application, the
6 parties filed the current joint motion to bifurcate the damages phase of this case. Magistrate Judge
7 Porter thereafter granted the Defendant's ex parte application, and issued yet another Modified
8 Scheduling Order.


9 The parties' current joint motion asks the Court to bifurcate not only the trial, but also all
10 fact and expert discovery relating to damages. The parties seek leave to proceed to pretrial and trial
11 only on the issue of liability, and then, only if there is a finding of liability, commence discovery
12 and proceed to trial on the issue of damages.

13 The parties' desire to conserve time and expense relating to damages discovery would have
14 been reasonable if they had proposed bifurcation nearly ten months ago when the original
15 Scheduling Order was issued, or at any time earlier this year when the parties were seeking one of
16 their numerous extensions of time. However, the parties have already sought and obtained four
17 extensions of their discovery dates. The Pretrial Conference has been continued three times, and is
18 currently set for September 13, 2010. The parties' proposed bifurcation of discovery and trial on
19 the issue of damages would significantly delay the final resolution of this case. Because of the
20 length of time this case has been pending, and in light of the numerous continuances the parties
21 have already obtained, the Court finds the parties' proposal is unreasonable and lacks good cause.

22 The parties' joint motion is DENIED.

23 **IT IS SO ORDERED.**

24 **DATED: October 7, 2009**

25 
26 **IRMA E. GONZALEZ, Chief Judge**
27 **United States District Court**

28 ¹Magistrate Judge Porter initially denied this application, but counsel renewed the application on September 23, 2009, and such application was referred to Magistrate Judge Porter for disposition.